

House File 107 - Introduced

HOUSE FILE 107

BY DAWSON

A BILL FOR

1 An Act to require owners or operators of certain child care
2 facilities and child care homes to provide evidence of
3 financial responsibility, providing a penalty, and including
4 applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 237A.9 Evidence of financial
2 responsibility.

3 1. A person shall not establish or operate a child care
4 facility or child care home unless the person furnishes
5 evidence acceptable to the department of the person's ability
6 to respond in damages for liability on account of accidents or
7 wrongdoings occurring subsequent to the effective date of the
8 evidence of financial responsibility in the amount of at least
9 five hundred thousand dollars because of bodily injury to or
10 the death of one person in any one accident or incident arising
11 out of the ownership or operation of a child care facility or
12 child care home.

13 2. The evidence of financial responsibility shall
14 consist of a surety bond, a liability insurance policy, or an
15 irrevocable letter of credit issued by a financial institution.
16 The evidence of financial responsibility shall be maintained
17 at not less than the required amount at all times during the
18 period of ownership or operation of the child care facility or
19 child care home. The department may accept a certification
20 of the evidence of financial responsibility. The evidence
21 of financial responsibility shall pay the amount that the
22 beneficiary is legally obligated to pay as damages caused by
23 the operations of the person's child care facility or child
24 care home. A liability insurance policy shall be subject to
25 the insurer's policy provisions filed with and approved by the
26 commissioner of insurance.

27 3. The department shall be notified ten days prior to any
28 reduction in the surety bond or liability insurance made at the
29 request of the person or of cancellation of the surety bond by
30 the surety or of cancellation of the liability insurance by the
31 insurer. The department shall be notified ninety days prior
32 to any reduction of the amount of the irrevocable letter of
33 credit at the request of the person or of the cancellation of
34 the irrevocable letter of credit by the financial institution.
35 The total and aggregate liability of the surety, insurer,

1 or financial institution for all claims shall be limited to
2 the face of the surety bond, liability insurance policy, or
3 irrevocable letter of credit. However, the surety, insurer,
4 or issuer remains liable for damages arising from accidents or
5 other wrongdoings that occurred during the effective period of
6 the evidence of financial responsibility.

7 4. A license or certificate of registration shall not be
8 issued to a child care facility under this chapter unless the
9 applicant furnishes evidence acceptable to the department of
10 compliance with this section.

11 5. A person shall not establish or operate a child care
12 home unless the applicant furnishes evidence acceptable to the
13 department of compliance with this section.

14 6. The department shall adopt rules pursuant to chapter 17A
15 to administer the provisions of this section.

16 Sec. 2. Section 237A.19, Code 2015, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 4. A person who establishes or operates a
19 child care facility or child care home in violation of section
20 237A.9 commits a simple misdemeanor. Each day of continuing
21 violation after conviction, or notice from the department by
22 certified mail of the violation, is a separate offense. A
23 single charge alleging a continuing violation may be made in
24 lieu of filing charges for each day of violation.

25 Sec. 3. APPLICABILITY. This Act applies to initial
26 applications and applications for renewal of licenses or
27 certificates of registration of child care facilities filed on
28 or after January 1, 2016, and to child care homes established
29 or in operation on or after January 1, 2016.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill requires that a person shall not establish or
34 operate a child care facility or child care home unless the
35 person furnishes evidence to the department of human services

1 of the person's ability to respond in damages for accidents or
2 wrongdoings that arise out of the ownership or operation of the
3 child care facility or child care home.

4 The evidence of financial responsibility must consist of a
5 surety bond, a liability insurance policy, or an irrevocable
6 letter of credit issued by a financial institution in the
7 amount of at least \$500,000 for damages because of bodily
8 injury to or the death of one person in any one accident or
9 incident arising out of the ownership or operation of a child
10 care facility or child care home.

11 The bill requires notice to the department of human services
12 if a surety bond, liability insurance, or irrevocable letter
13 of credit is reduced or canceled. The department is required
14 to adopt rules to administer the provisions of the bill. A
15 violation of the provisions of the bill is punishable as a
16 simple misdemeanor and can result in suspension or revocation
17 of the license or certificate of registration of a child care
18 facility. A simple misdemeanor is punishable by confinement
19 for no more than 30 days or a fine of at least \$65 but not more
20 than \$625 or by both.

21 Under Code chapter 237A, a child care facility includes a
22 child care center, which is a facility that provides child care
23 or preschool services for seven or more children and cannot
24 be established or operated without obtaining a license, and
25 includes a child development home, which is a person or program
26 that provides child care for six or more children and cannot
27 be established or operated without obtaining a certificate
28 of registration. A child care home is a person or program
29 providing child care to five or fewer children that is not
30 required to obtain a certificate of registration.

31 The bill is applicable to initial applications and
32 applications for renewal of licenses or certificates of
33 registration of child care facilities filed on or after January
34 1, 2016, and to child care homes established or in operation on
35 or after January 1, 2016.